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BY ECF

Hon. Taryn A. Merkl
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: *Trooper 1 v. NYSP et al.*, No. 22-cv-893

Dear Judge Merkl:

We represent Melissa DeRosa and Richard Azzopardi, defendants in the above-captioned matter. On July 10, 2023, we, along with counsel for former Governor Andrew Cuomo, took the deposition of Ana Liss-Jackson. Since then, Governor Cuomo has filed various letters with the Court regarding the public filing of Ms. Liss-Jackson's testimony, exhibits to her deposition, and references to her testimony in legal filings, some of which we previously joined. On August 1, 2023, the Court allowed attorneys for Ms. Liss-Jackson and Lindsey Boylan to file written submissions by August 9 responding to the motions concerning confidentiality of the Liss transcript. Both Ms. Liss-Jackson and Ms. Boylan did so. We now write to seek the Court's permission to file Ms. DeRosa's position on those submissions by Ms. Liss-Jackson and Ms. Boylan.

With respect to Ms. Liss-Jackson's submission, as counsel for Governor Cuomo noted in their letter to the Court dated August 9, 2023, Dkt. 110, Ms. Liss-Jackson's attorney, Donald Rehkopf, raised new arguments in his submission not previously articulated and that warrant a response. Moreover, I personally had several communications with Mr. Rehkopf before August 9, in which he contradicted certain statements he has made in the August 9 submission and, therefore, which are relevant to the Court's consideration of the issue of confidentiality and which we could describe in more detail in our anticipated response.

Moreover, with respect to Ms. Boylan, she asserts that certain texts between her and Ms. Liss-Jackson (which were admitted as exhibits to Ms. Liss-Jackson's deposition) are personal

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and should be designated as confidential. Significantly, these texts do not contain any personal information about Ms. Boylan or Ms. Liss-Jackson which is not already in the public record. Rather, these texts contain comments about Ms. DeRosa that may demonstrate witness bias. As the subject of the texts, Ms. DeRosa does not agree that these texts should be deemed confidential, nor is Ms. DeRosa aware of a legal basis to deem them confidential. Thus, we respectfully request permission for Ms. DeRosa to file a response to both Ms. Liss-Jackson's and Ms. Boylan's arguments regarding the confidentiality of those text messages.

Accordingly, in keeping with Governor Cuomo's request, Ms. DeRosa also seeks leave from the Court to file a brief submission on the issue of confidentiality by August 16, 2023.

We thank the Court for its attention to this matter.

Respectfully submitted,

/s/ Catherine M. Foti
Catherine M. Foti